

KEWEENAW BAY INDIAN COMMUNITY

Keweenaw Bay Tribal Center
16429 Beartown Road
Baraga, Michigan 49908
Phone (906) 353-6623
Fax (906) 353-7540

2022 TRIBAL COUNCIL

KIM KLOPSTEIN, President
SUSAN J. LAFERNIER, Vice President
TONI J. MINTON, Secretary
DON MESSER, Assistant Secretary
RANDALL R. HAATAJA, Treasurer

DOREEN G. BLAKER
ROBERT "R.D." CURTIS, JR.
EDDY EDWARDS
SUE ELLEN ELMBLAD
ELIZABETH "LIZ" JULIO
GARY F. LOONSFOOT, JR.
RODNEY LOONSFOOT

November 4, 2022
Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-[49])
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

RE: Comments of the Keweenaw Bay Indian Community on IRS Notice-2022-[49]

To Whom It May Concern:

On behalf of the Keweenaw Bay Indian Community, I hereby submit these written comments in response to IRS Notice 2022-[49] related to request for comments on Interconnection Property and Special Programs for projects in low-income communities. The Keweenaw Bay Indian Community is located in Michigan on the Southern shores of Lake Superior. The Tribe has over 3500 tribal members, and over 59,000 acres on the L'Anse Indian Reservation. Since 2008, the Tribe has pursued clean energy project opportunities, including efforts to investigate the feasibility of wind, solar, microgrids, geothermal, biomass projects on the Reservation and eventually deploy and develop solar and geothermal. Up to now, these efforts have been almost entirely dependent on federal financial assistance, such as grants.

With the newly enacted Inflation Reduction Act, the Tribe now has opportunities to develop, deploy, own and control clean energy projects on the Reservation that will serve to meet the Tribe's clean energy and economic development goals and can help the Tribe contribute to the United States' overall clean energy goals. Our comments are submitted in the context of trying to take full advantage of the new authorities, tax benefits, and opportunities the IRA is intended to create for tribes.

Specific Comments

Sec.02(1)(b) - Interconnection Property

(i) The following types of additions, modifications and upgrades are required for interconnecting clean energy generation projects:

(ii) Additional documentation should include other types of contracts, such as purchase orders, that include interconnection design, engineering or construction work.

(iii) Guidance related to the maximum net output of 5 MWac should be focused on the interconnected capacity and not necessarily on the total system capacity. It is possible, and in some circumstances necessary, that a portion of a renewable energy project will be interconnected to the grid while another portion of the project is not connected (for example, it is connected to a battery energy storage system). This circumstance can be likely for a microgrid or solar or wind+storage project. The solar or wind project could be 10 MWdc, with 5MW going to batter (or other storage) and 5MW going into the grid. In this example, the guidance should account for this potential split, and allow for the project to take the tax credits for the interconnection cost.

Section .06 Special programs for projects in low-income communities

(1)(a) First and foremost, Treasury must schedule tribal consultation with tribal governments directly. Treasury needs to solicit the input from tribal governments about their potential participation in this program and the key issues and barriers facing tribes that could prevent - or delay - participation.

Second, Treasury should implement an Indian lands allocation set aside, with a minimum allocation of 1MW for every Indian tribe. The allocation can be based on the NREL estimates of solar and wind potential on tribal lands compared to the DOE estimates of solar and wind potential in disadvantaged communities as described in their recent Distributed Solar and Distributed Wind reports.

Third, other guidance factors regarding the application process should include:

- * Information on the status of eligible projects currently in development
- * Information on the purpose of the eligible projects
- * Information about the number, size, total capacity of eligible projects
- * Information on the ownership of eligible projects
- * Information about tribal entities, such as housing authorities, utilities, and tribally owned enterprises

(1)(b) Given the limited capacity of most tribes, the application process should be relatively simple and the application should be easy to access. Treasury has created the on-line application process for several COVID relief programs, which Tribes are very familiar with. A similar application can be created for this program.

(1)(c) For projects on tribal lands, there should not be a requirement for community input, engagement or benefits. Tribal governments already control the development of projects on tribal lands, and should have to go through confirmation or verification processes, as may be necessary for other projects located in low-income communities.

(2)(a) For tribal projects, no state of completion should be required. As noted above, every tribe should be a minimum allocation of 1MW, which will allow tribes to develop projects over

the four year requirement with the knowledge and certainty that they will be able to receive the increased tax credits for their project(s). If the allocation is not used, or if the tribe wants to return its allocation, then that allocation can be made available to other tribes.


(3) For a tribal housing project, any project owned by a tribal housing authority should be de facto considered part of a low-income residential building project. If the project is owned directly by the tribe, a tribal utility, or other tribal entity (such as a non-profit), the tribal entity should be able to self-certify that the project benefits tribal members.

Other Comments

As discussed above, the Tribe has typically relied on federal grants or other federal financial assistance to develop and deploy clean energy projects. Treasury should clarify that the use of federal grant funding for clean energy projects will not result in the loss of tax credit eligibility. The Tribe would support an approach that the "cost basis" of the tax credit will be reduced by the grant amount, but that the tax credit would be available for any remaining non-federal cost share. For example, if the clean energy project costs \$10 million to construct and the Tribe receives a \$2 million federal grant, then the cost basis could be reduced to \$8 million (the non-federal cost share amount) and the tax credit applied to the \$8million.

Again, thank you for the opportunity to present comments on behalf of the Keweenaw Bay Indian Community.

Sincerely,



Kim Klopstein
President